

State and Federal Citations	Constitutional and Statutory Overview
<p>Constitutional basis La. Const. art. IV, § 21(B) La. Const. art. IV, § 21(D)</p>	<p>This is the general constitutional article that creates the LPSC's robust and plenary authority to regulate public utilities and common carriers. Under this Constitutional article, the LPSC "shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law." The LPSC is specifically empowered to adopt and enforce reasonable rules, regulations and procedures necessary to carry out this constitutional mandate. The Louisiana Supreme Court has consistently held that legislative acts or omissions cannot subtract from the LPSC's exclusive, plenary power to regulate all common carriers and public utilities; indeed, the LPSC's power in this regard is as complete in every respect as the regulatory power that would have been vested in the legislature in the absence of this constitutional article.¹ Simply stated, the legislature simply has no authority to regulate common carriers and public utilities, as the Constitution has granted that authority to the LPSC and only to the LPSC.</p> <p>Pursuant to this grant of plenary regulatory authority, Article IV, Section 21(D) empowers the LPSC to approve or disapprove applications for rate increases.</p>
<p>Statutory basis La. R.S. 45:1163 La. R.S. 45:1164</p>	<p>In keeping with the LPSC's constitutional mandate to regulate common carriers and public utilities, Revised Statute 45:1163 delineates the LPSC's power and authority. Specifically, the LPSC has jurisdiction over all street railway, gas, electric light, heat, power, waterworks and other local public utilities for the purpose of fixing and regulating the rates and services of such utilities. Revised Statute 45:1164 extends the LPSC's power, authority and duties to all matters and things concerning the services provided by regulated utilities. The statute however provides an exemption for activities in Orleans Parish, utilities owned by municipalities, private, self-contained electric generation facilities and wholesalers of electricity. Through these two statutes, the LPSC is able to apply its constitutional authority over public utilities and common carriers, thereby ensuring that ratepayers receive the highest quality of services at economical prices while concurrently providing a reasonable rate of return to industries that employ thousands of Louisiana residents and contribute heavily to the state's tax base.</p>
<p>LPSC jurisdiction over municipally owned utilities</p>	<p>La. R.S. 33:4491-4494 extend the LPSC's plenary constitutional authority over public utilities to utility companies owned and</p>

¹ See, e.g., *Eagle Water Inc. v. Louisiana Pub. Serv. Comm'n*, 06-1899, p.6 (La. 1/17/07), 947 So.2d 28, 32-33; *Bowie v. Louisiana Pub. Serv. Comm'n*, 627 So.2d 164, 166 (La. 1993).

La. R.S. 33:4491 La. R.S. 33:4492 La. R.S. 33:4493 La. R.S. 33:4493 La. R.S. 33:4494 La. R.S. 33:4495	controlled by local municipalities, subject to the municipalities' surrender of such authority in the manner prescribed. La. R.S. 33:4495 then requires that the LPSC surrender such acquired authority if a municipality elects to reclaim such authority in the manner prescribed. These statutes grant local municipalities the option of transferring control of their municipally owned utility companies to the LPSC, an entity that is uniquely suited to regulate the practices of such companies by virtue of the LPSC's decades of experience in regulating similarly situated businesses.
Estimated bills La. R.S. 45:846	A gas, electric or water utility may render and collect estimated bills only if done according to a basis approved or prescribed by the LPSC. Thus, if a meter is tampered with or becomes inoperable, the LPSC can set a means for the utility to collect the approximate value of the actual charges amassed by the customer. This provision therefore acts as a deterrent against unscrupulous business practices, and limits dishonest ratepayer conduct.
Issuance of securities La. R.S. 45:1161 La. R.S. 45:1168 La. R.S. 45:1169 La. R.S. 45:1170 La. R.S. 45:1171 La. R.S. 45:1172 La. R.S. 45:1173 La. R.S. 45:1174 La. R.S. 45:1175 Gen. Order 6-5-96 Gen. Order 11-13-96 General Order 12-14-06	<p>The LPSC oversees the issuance of certain kinds of securities and the assumption of obligations by regulated entities. The LPSC exercises this authority as a means of ensuring that such issuances and/or assumptions are for a lawful object within the corporate purposes of the utility, are necessary or appropriate for the utility's service to the public, and will not impair the utility's ability to perform its service.</p> <p>Pursuant to its constitutional grant of authority, the LPSC has issued three general orders clarifying and extending its ability to oversee the issuance of securities by regulated entities.</p>
Rate increase through posting of a bond La. Const art. IV § 21(D) La. R.S. 45:1163.1	If the LPSC has not rendered a final decision within one year of a utility's filing of an application for an increase, that utility may implement the proposed rate increase only if it files a protective bond or security with the LPSC. The LPSC can challenge the sufficiency of the bond in district court if necessary. This requirement accomplishes three objectives: it provides a financial incentive to utilities to cooperate with the LPSC in conducting ratemaking proceedings in an efficient manner without unnecessary delay; it prevents duplicative ratemaking dockets by continuing proceedings under one single docket; and it protects the public interest from having an undue rate imposed upon them through the negligence of a utility.

<p>Contracts entered into by regulated utilities La. Const. art. IV § 21 La. R.S. 45:1176</p>	<p>La. R.S. 45:1176 restates the LPSC's inherent authority to investigate the reasonableness and justness of contracts entered into by regulated utilities, and also authorizes the LPSC to disallow the recoupment of unjust and unreasonable expenses. (The LPSC must hold a hearing to determine the legitimacy of the contested expenses.) Although other state agencies are certainly capable of overseeing and approving contracts, the LPSC's expertise in the industries that it regulates guarantees an accurate result.</p>
<p>Louisiana Utilities Restoration Corporation La. R.S. 45:1311 La. R.S. 45:1312 La. R.S. 45:1313 La. R.S. 45:1316 La. R.S. 45:1317 La. R.S. 45:1318 La. R.S. 45:1319 La. R.S. 45:1320 La. R.S. 45:1321 La. R.S. 45:1322 La. R.S. 45:1323 La. R.S. 45:1324 La. R.S. 45:1325 La. R.S. 45:1326 La. R.S. 45:1327 La. R.S. 45:1328</p>	<p>In order to help utility companies rebuild utility system restoration after natural and man-made disasters, the legislature created the Louisiana Utilities Restoration Corporation. This non-profit corporation provides alternate financing mechanisms to the LPSC (and to the New Orleans City Council) to attract low-cost capital to finance utility system restoration and capital contributions to financially strengthen and stabilize utilities. The corporation is a special purpose corporation and a political instrumentality of the state, but has a legal existence as a public corporate body separate and distinct from the state.</p> <p>The corporation's assets are not considered part of the general fund or any other fund in the state treasury. Its monies are maintained by the corporation as a separate and special fund distinct from the state's general fund. The corporation's annual operating budget must be approved by the LPSC, and expenditures shall be under the direction of the corporation's governing board and the regulation of the LPSC, and is further subject to procedures established by applicable LPSC regulations and orders.</p> <p>The Secretary of the LPSC (or her designee) serves on the governing board of the corporation. LPSC staff may likewise serve as staff to the corporation under the supervision of the secretary, and the corporation may retain professionals, financial advisors, and accountants as necessary (subject to approval of the LPSC).</p> <p>The LPSC can authorize the issuance of tax-exempt system restoration bonds if the LPSC finds that proposed structuring, expected pricing, and anticipated financing costs of the system restoration bonds are reasonably expected to result in lower overall costs to ratepayers as compared to conventional methods of financing or recovering utility system restoration costs. The LPSC approves system restoration costs incurred by utility companies and then issues a financing order that specifies the amount of system restoration costs, authorizes the corporation to</p>

	<p>impose system restoration charges, and authorizes the utility companies to collect the charges. System restoration charges are nonbypassable, meaning that all customers within the LPSC's jurisdiction and receiving electric delivery service must pay the charges. (The utilities are not required to pay state corporate income tax on the system charges.)</p> <p>The LPSC's order will further require that the corporation sell or pledge the funds collected to a bond issuer (namely, the Louisiana Public Finance Authority) in exchange for the bond proceeds, which are returned to the utility company to pay system restoration costs and set up storm reserves. The LPSC can include any other conditions or provisions in a financing order that the LPSC deems appropriate with respect to any matters pertaining to and within the LPSC's constitutional jurisdiction over utilities and plenary power to regulate utilities. The corporation shall not apply any proceeds of system restoration bonds or system restoration charges to any purpose not specified in a financial order of the LPSC, or to any purpose in excess of the amount allowed in the LPSC's order, or to any purpose in contravention of the order.</p> <p>The LPSC's ability to issue financial orders to the Utilities Restoration Corporation has only one limitation – the LPSC cannot issue such orders to electric or natural gas utilities providing electric or natural gas service within the City of New Orleans. In fact, the legislature specifically declared that the Utilities Restoration Corporation does not create any limitation, derogation, or diminution of the LPSC's jurisdiction or authority.</p> <p>The alternate financing structure of the Utilities Restoration Corporation enables the corporation to finance, directly or indirectly, system restoration costs and capital costs associated with the damage caused by Hurricanes Katrina and Rita with low-cost capital.</p>
<p>Rate analysis & hearing examiners division La. R.S. 45:1163.3 La. R.S. 45:1177(C)</p>	<p>In order to help the LPSC examine the affairs of regulated utilities and common carriers, and to represent the LPSC in matters affecting the services and rates charged by such regulated entities to Louisiana Consumers, and to further represent the LPSC in the judicial review by Louisiana courts of decisions rendered by the LPSC, the LPSC's economics and rate analysis and hearing examiners division was established.</p> <p>In addition to its regulatory staff, the LPSC is thus required to employ (as full time employees) attorneys and persons trained in</p>

	auditing, economics, finance, engineering and accounting (as well as any necessary clerical or support staff). The LPSC is furthermore empowered to retain other attorneys, engineers, consultants, accountants or support staff to assist the economics and rate analysis division. The LPSC is furthermore required to employ an in-house general counsel. By having such professionals and resources available, the LPSC can make informed decisions about the regulation and rates of the businesses subject to LPSC jurisdiction based on the specialized knowledge of its in-house staff.
<p>Inspection and supervision fund</p> <p>La. R.S. 45:1177</p> <p>La. R.S. 45:1178</p> <p>La. R.S. 45:1179</p> <p>La. R.S. 45:1180</p> <p>La. R.S. 45:1181</p> <p>La. R.S. 45:1182</p> <p>La. R.S. 45:1183</p>	<p>Obviously, the LPSC would not be able to carry out its constitutional mandate to regulate common carriers and public utilities operating within Louisiana without some source of funding. The LPSC is primarily funded by fees collected from the utilities and carriers subject to LPSC control and jurisdiction and deposited into a special fund in the state treasury known as the Utility and Carrier Inspection and Supervision Fund. This fee is calculated according to the gross receipts of each entity, and is used to defray the costs of the inspection, control and supervision of the business service and rates of each public utility. The LPSC, much like its sister agencies in other jurisdictions, does not receive any monies from the State's General Fund.</p> <p>In those instances where the LPSC must examine the affairs of a public utility or carrier subject to the LPSC's jurisdiction, the LPSC has discretion to assess the costs of such an examination (including the cost of any outside attorneys, experts or consultants) upon the utility company or carrier being investigated.</p> <p>This funding method thereby ensures that a ratepayer's contribution to the funding of the LPSC is only in proportion to the amount of regulated services that that ratepayer actually uses. The utilities/carrier pay the LPSC inspection and supervision fees in proportion to their gross receipts, then pass on the cost of those fees to the ratepayers in the form of rates (in a schedule approved by the LPSC to be fair and equitable to the ratepayer while promising a reasonable rate of return to the utility). The ratepayer is then assessed a charge by the relevant utility/carrier in an amount proportionate to the degree of services actually used by that ratepayer.</p>
<p>Enforcement of LPSC orders</p> <p>La. R.S. 45:1196</p>	<p>These statutory provisions create a grievance procedure similar to arbitration wherein a person aggrieved by a regulated utility may submit a complaint to the LPSC by petition. If there is reasonable</p>

La. R.S. 45:1197 La. R.S. 45:1198 La. R.S. 45:1199	grounds for the complaint, the LPSC will investigate and hold a hearing if necessary. If the complainant is entitled to an award of damages, the LPSC will make an order directing the regulated utility to pay as such. The complainant or the LPSC can file suit in district court to enforce the LPSC's award of damages. This forum allows injured ratepayers to contest the actions of their utility providers to a neutral third party without having to immediately resort to expensive litigation. If litigation becomes necessary to enforce the award, the innocent ratepayer would then have the advantage of the LPSC's legal expertise. The procedure also protects ethical utility companies from litigating frivolous complaints.
Extensions for servicemen La. R.S. 29:317 La. R.S. 29:318 La. R.S. 39:319	The LPSC can assist returning U.S. servicemen with obtaining extensions of time to pay natural gas, electric and water charges.
Extension of electric service La. R.S. 45:122	The LPSC has authority to require electric public utilities to extend service if the revenues to be derived from the extension would be sufficient to provide a fair return. The LPSC thus makes certain that services are provided in a nondiscriminatory fashion to all regardless of location (so long as the provision of services would not present an undue burden to regulated utilities).
Levelized/budget billing La. R.S. 45:1221 La. R.S. 45:1222 La. R.S. 45:1223 Gen. Order 3-7-02	<p>The LPSC requires all utilities subject to its jurisdiction to implement a deferred billing program that allows eligible customers to pre-enroll with the utility to receive the benefits of levelized/budget billing during energy emergencies. Such programs should at a minimum allow utility companies to defer payment of a utility bill for up to twelve months.</p> <p>Eligible customers include: persons whose income does not exceed 150% of the federal poverty level, persons who receive food stamps, temporary Assistance for Needy Families, or whose sole income consists of Social Security payments; vital government entities that provide services in whose absence the public health, safety and welfare could be placed into imminent peril; and persons who need life-sustaining, electrically operated equipment or electricity-dependent, life-sustaining medical treatment.</p> <p>Utilities must periodically inform their customers about the program and adopt application & enrollment procedures that must be approved by the LPSC. If the customer continues to make required payments under such a deferred payment program, then he or she cannot have his or her service discontinued.</p>

	<p>The LPSC is mandated to impose penalties for violations of its general order(s) regarding this program.</p> <p>The required programs therefore protect the health and safety of disadvantaged individuals and vital social programs during times of inordinately high energy costs, extreme inclement weather, or any other extraordinary circumstances determined by the LPSC.</p>
<p>“Call before you dig” (permission to enter private rights-of-way) La. R.S. 45:1510</p>	<p>Utility companies, carriers and telecommunications service providers are prohibited from entering a right-of-way located on a private landowner’s property without first making a good faith attempt to obtain permission from the landowner. The utility, carrier or telecommunications service provider must also provide the landowner with a reasonable period of time to mark underground utility lines. If such lines are damaged, the landowner must be notified of the damage and ensuing repair.</p> <p>The LPSC is therefore required to promulgate rules and regulations necessary to implement these provisions. (These provisions do not apply to a utility, carrier or telecommunications service provider conducting an emergency response to a crisis situation requiring immediate action to prevent threat or damage to life, health or property.)</p> <p>This rule thereby protects a private landowner’s right to privacy in the home and reduces the risk of potential damage to underground workings. Because the LPSC is the only state agency with both constitutional and statutory authority over utilities, carriers and telecommunications service providers, it is the only entity capable of monitoring and controlling such activities.</p>
<p>“300 Foot Rules” disputes La. R.S. 45:123 Gen. Order of 7/11/00 5/17/04 Modification to Gen. Order of 7/11/00 5/26/04 Modification to Gen. Order of 7/11/00 5/10/05 Modification to Gen. Order of 7/11/00 10/6/05 Modification to Gen. Order of 5/17/04</p>	<p>If a public utility’s existing lines are more than 300 feet away from a potential new customer’s property, and the customer’s property is within 300 feet of a competing utilities lines, then the first utility is prohibited from extending its service lines to that customer. If the customer’s property is situated within 300 feet of two different utilities, then the customer may choose which utility will provide service to the property. In order to prevent the unnecessary duplication of services, the LPSC has jurisdiction to determine which utility has the right to provide service to the customer.</p> <p>The LPSC has utilized its constitutional authority over telephone carriers to implement several general orders detailing the scope of the LPSC’s jurisdiction in, and the procedure to be utilized in 300</p>

	foot rule disputes.
<p>Authority over electric utilities La. Const. art. IV, § 21 La. R.S. 38:2325 La. R.S. 45:121 La. R.S. 45:1163</p>	<p>Pursuant to legislative directive and in accordance with the LPSC's constitutional mandate to regulate public utilities, all business entities that match the legislature's definition of "electric public utility" are subject to cogeneration rules and regulations adopted by the LPSC.</p> <p>The LPSC's power and authority over public utilities necessarily extends to the fixing and regulation of the rates and services provided by electric utilities. While electric co-ops possessing a federally approved schedule of rates are exempt from the LPSC's jurisdiction, the Louisiana Supreme Court has held that electric cooperatives are indeed subject to the LPSC's jurisdiction.² The LPSC may furthermore exercise jurisdiction over any electric cooperatives that have elected to be regulated by the LPSC in the manner prescribed by statute.</p> <p>The LPSC's authority over electric utilities has even been extended to hydroelectric power produced by the Sabine River Authority.</p> <p>In keeping with its constitutional mandate, the LPSC fulfills the invaluable role of ensuring that ratepayers are charged a fair rate for the electricity that they use, while making certain that investor owned electric companies have an ongoing incentive to operate in the form of a fair rate of return.</p>
<p>Alternative rate tariffs La. R.S. 45:1163.2</p>	<p>In order to strengthen the economic stability of Louisiana as a whole, which is heavily dependent on the state's industrial base, the LPSC shall require electric public utilities to file alternative rate tariffs (based solely on oil and/or gas fired generation) for depressed energy-intensive industries. Louisiana industries are thus able to remain competitive with comparable industries located outside of this state.</p>
<p>Overhead power line safety La. R.S. 45:141 La. R.S. 45:142 La. R.S. 45:143 La. R.S. 45:144 La. R.S. 45:145 La. R.S. 45:146</p>	<p>Except for certain employees of public utilities, no person may work within ten feet of any high voltage overhead power lines. If any unauthorized person intends to work within ten feet of a high voltage overhead power line, the person responsible for the work must notify the owner or operator if the line not less than 48 hours prior to commencing work.</p> <p>The LPSC has a mandate to promulgate rules and regulations</p>

² *Cajun Elec. Power Co-op, Inc. v. Louisiana Pub. Serv. Comm'n*, 544 So.2d 362 (La. 1989).

	<p>requiring owners and operators of overhead electric utility lines to promote public awareness of the dangers of contact with high voltage overhead electric lines. Because of its continuing regulation of electric utility companies, the LPSC is the natural and indeed only agency capable of compelling electric utilities to raise public awareness of the risks involved in such an inherently dangerous realm.</p>
<p>Net metering La. R.S. 51:3025 La. R.S. 51:3026 La. R.S. 51:3027</p>	<p>“Net metering” refers to the difference between electricity supplied by an electric utility and electricity generated by an individual’s use of solar, wind, hydroelectric, geothermal or biomass resources to generate electricity. Utilities must allow net metering facilities to be interconnected using a meter capable of registering the flow of electricity in two directions. This increased consumption of renewable energy resources meets the growing energy demand, increases use of indigenous fuels, and fosters investment in emerging renewable technologies to stimulate economic development and job creation.</p> <p>Being the only constitutionally created executive agency with plenary regulatory authority over electric utilities, the LPSC establishes rates, terms, and conditions for net metering contracts. The LPSC can also authorize an electric utility to assess a net metering customer a greater fee or charge if the utility’s cost of interconnection and administration outweigh the benefits to the environment, to the distribution system and to public policy.</p>
<p>LPSC authority over sales of natural gas to local distribution companies La. Const. art. IV, § 21 La. Const. art. IX, § 2 La. R.S. 30:551 La. R.S. 45:1163</p>	<p>The LPSC possesses authority to regulate the sale of natural gas moving by pipeline to local distribution companies for resale. The LPSC then regulates resales by those LDCs for the purposes of fixing and regulating the rates and services charged and rendered by public utilities in such sale. This grant of authority does not extend to utilities owned or operated by a political subdivision or subject to regulation in accordance with the provisions of a home rule charter.</p> <p>Revised Statute 45:1163 provides an exemption for providers of natural gas to industrial plants and sellers of compressed natural gas for use in vehicles.</p> <p>Possessed of a constitutional mandate to regulate common carriers and public utilities, the LPSC is the only agency capable of performing this all-important function.</p>
<p>Regulation of natural gas pipelines</p>	<p>The LPSC shall supervise, govern, regulate and control transportation or sale of natural gas by pipeline to local</p>

<p>La. Const. art. IV, § 21 La. R.S. 45:301 La. R.S. 45:302 La. R.S. 45:308 La. R.S. 45:309 La. R.S. 45:310 La. R.S. 45:311 La. R.S. 45:312 La. R.S. 45:313</p>	<p>distribution companies for resale. This grant of authority extends to all matters and things directly connected with the service rendered by such pipelines transporting or selling natural gas to local distribution companies for resale. The LPSC must also hold a public hearing to determine if service to a local distribution company may be shut off or disconnected.</p> <p>The LPSC can adopt federal gas pipeline standards, and also promulgate rules and regulations concerning inspection and maintenance of pipeline facilities. Moreover, the LPSC can impose penalties on gas pipelines that do not comply with applicable statutes. If necessary, the LPSC is able to initiate litigation in Louisiana's 19th Judicial District Court for enforcement of its orders.</p> <p>The LPSC can also apply for and receive federal grants, and can further enter into compacts, agreements or contracts with state and/or federal agencies regarding the creation of uniform pipeline safety standards.</p> <p>Although pipelines that were already in effect in 1968 are exempt from uniform safety standards, the LPSC can nonetheless require any such utility to remove safety hazards.</p> <p>The LPSC's oversight of natural gas pipelines assures that intrastate transportation of natural gas will conform to the highest safety standards while concomitantly preventing pipeline companies from charging unduly high rates.</p>
<p>Regulation of petroleum pipelines La. R.S. 45:252 La. R.S. 45:253 La. R.S. 45:255 La. R.S. 45:258 La. R.S. 45:259 La. R.S. 45:260</p>	<p>The LPSC possesses regulatory authority over intrastate transportation of petroleum through pipelines, with ability to adopt, change or make corresponding (and reasonable) charges or regulations. The LPSC is thus compelled to establish/enforce reasonable rates/regulations for gathering, transporting, loading and delivering petroleum and for furnishing and use of tank facilities. Likewise, the LPSC shall make and enforce regulations for control of petroleum common carriers with respect to pipelines and receiving, tanking, delivering, transferring and loading facilities. The LPSC must exercise this authority upon petition by any person showing a substantial interest in the subject. The LPSC must also give 10 days' notice before a hearing.</p> <p>The LPSC is furthermore required to make reasonable rules and regulations regarding publication of petroleum gas tariffs. Accordingly, the LPSC can hear and determine complaints,</p>

	<p>require attendance of witnesses, and institute suits to enforce its orders. The LPSC may also order a common carrier of petroleum to disclose reports of its total, aggregate quantities of petroleum; it may also make and enforce regulations to prevent discrimination in distribution of petroleum gas. The LPSC may also employ an expert if necessary.</p> <p>In fact, the LPSC's authority in this regard is so broad the LPSC can make all other rules and regulations necessary to regulate common carriers of petroleum gas, even if such laws would be limited in application to particular oil fields.</p>
<p>Water companies and sewage treatment facilities La. Const. art. IV, § 21 La. R.S. 30:2075.2 La. R.S. 45:1163 La. R.S. 45:1203 La. R.S. 45:1204 La. R.S. 45:1205</p>	<p>In accordance with the LPSC's constitutional mandate to regulate public utilities, it is required to exercise all necessary power and authority to supervise, govern, regulate and control privately owned sewerage disposal companies (although rates fixed for East Baton Rouge Parish and Livingston Parish do not become effective until approved by the respective parish governments).</p> <p>The LPSC must further determine if a sewage treatment facility is financially able to properly maintain or operate its system, for purposes of whether that facility must forfeit a bond provided to the Department of Environmental Quality.</p> <p>As with all other public utilities under the LPSC's jurisdiction, regulation guarantees that ratepayers are able to receive quality water and wastewater services at a price that is both affordable for the ratepayer and provides for an equitable rate of return to the service provider. The LPSC's ability to compel forfeiture of a bond further promises that sewage treatment companies preserve their facilities in a manner that does not injure the health and well-being of ratepayers.</p>
<p>Regulation of telephone carriers La. Const. art. IV, § 21 La. R.S. 45:844.53 La. R.S. 45:844.55 La. R.S. 45:1163 La. R.S. 45:1166</p>	<p>In keeping with the LPSC's constitutional grant of plenary regulatory authority over public utilities and common carriers, the LPSC has a mandate to regulate telegraph and telephone operators, adopting reasonable and just rules, regulations and orders accordingly. The LPSC has additional authority to promulgate necessary rules for telephone businesses to cooperate with law enforcement officials in intercepting indecent phone calls, but may not make any rules or regulations that conflict with federal wiretapping laws.</p> <p>Local governments that provide telecommunications services are specifically subject to the jurisdiction of the LPSC. The LPSC has a specific statutory mandate to adopt cost allocation and affiliate</p>

	<p>transaction rules pertaining to local governments that provide telecommunications services.</p> <p>Although the telephone industry is a competitive one, the LPSC's regulation promotes fair business practices between telephone service providers while promising quality of telephone service, reasonableness of rates and other consumer protection measures for ratepayers.</p>
<p>Creation of state universal service fund 47 U.S.C. § 254</p>	<p>Upon deregulating the telecommunications industry in 1996, Congress required all providers of telecommunications services to contribute towards the provision of universal telecommunications services that can be accessed by all Americans. To that end, the Federal Communications Commission created the federal Universal Service Fund. Telecommunications carriers must contribute to this fund an amount proportionate to the volume of their interstate and international end-user revenues.</p> <p>Congress further gave authority to the states to adopt a program not inconsistent with the Federal Communications Commission's plan for preserving and advancing universal service. However, Congress specifically required every telecommunications service provider that provides intrastate telecommunications service to contribute to the preservation and advancement of universal service in that state.</p> <p>In response to this federal mandate for intrastate telecommunications providers, the LPSC created a separate and distinct state Universal Service Fund, and required all telephone carriers providing intrastate service in Louisiana to contribute to this fund. Louisiana carriers must contribute to the state fund an amount in reciprocal proportion to the amount contributed to the federal Universal Service Fund – that is, intrastate carriers must contribute to the state fund an amount proportionate to the volume of their intrastate end-used revenues.</p>
<p>Certification of eligible telecommunications carriers La. Const. art. IV, § 21 47 U.S.C. § 214(e) 47 U.S.C. § 254(e) 47 U.S.C. § 254(f) 47 C.F.R. § 54.101</p>	<p>A telephone service provider may only receive universal service fund monies if it has been certified as an Eligible Telecommunications Carrier. In accordance with the LPSC's constitutionally created regulatory oversight of common carriers, it is required by federal law to certify a telephone service provider (including competitive local exchange carriers that purchase and resell telecommunications services from incumbent local exchange carriers) as an Eligible Telecommunications Carrier if the carrier provides nine enumerated forms of telecommunications service, to wit: voice-grade access to the</p>

	<p>public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single party services or its functional equivalent; access to emergency services; access to operator services; access to interexchange services; access to directory assistance; and toll limitation for qualifying low income customers. The LPSC is therefore responsible for verifying that an applicant for certification as an Eligible Telecommunications Carrier will provide each of these services.</p> <p>This grant of federal authority effectively bestows upon the LPSC the ability to decide who can receive funding from the state Universal Service Fund and its federal counterpart.</p>
<p>Interconnection agreements 47 U.S.C. § 251 47 U.S.C. § 252 La. R.S. 45:1504</p>	<p>Following the dissolution of the Bell System and the subsequent deregulation of the telecommunications industry, competitive local exchange carriers are able to provide telephone services to ratepayers using equipment purchased or leased from incumbent local exchange carriers (the former regional Bell operated companies). State commissions such as the PSC are entrusted with approving interconnection agreements. As these competitive local exchange carriers negotiate interconnection agreements to establish the cost of unbundled network elements and reciprocated rates with the incumbent local exchange carriers, actors are periodically unable to arrive at a mutual agreement. The LPSC is therefore empowered both by state statute and by federal law to order an interconnection agreement (on reasonable terms) between two telephone service providers or between a radio common carrier and a serving telephone company if a necessity exists therefore.</p>
<p>911 Point of contact/Wireless Communications and Public Safety Act La. R.S. 33:9101 La. R.S. 33:9101.1 La. R.S. 33:9102 La. R.S. 33:9103 La. R.S. 33:9104 La. R.S. 33:9105 La. R.S. 33:9106 La. R.S. 33:9106.1 La. R.S. 33:9106.2 La. R.S. 33:910 La. R.S. 33:910 47 U.S.C. § 609</p>	<p>The legislature empowered the governing authority of each parish to create communications districts within their territories. The number “911” was furthermore established as the primary emergency telephone number within each such district, although districts are permitted to establish a secondary backup number if they so choose.</p> <p>Although these districts were intended to operate autonomously without regulatory oversight, the Federal Communications Commission directed each state to appoint a centralized point of contact in accordance with the Wireless Communications and Public Safety Act of 1999. Taking heed of the LPSC’s regulatory oversight of the telecommunications industry, Governor Foster designated the LPSC as Louisiana’s central point of contact. The LPSC is furthermore charged with coordinating and assigning all secondary N11 abbreviated dialing codes.</p>

47 U.S.C. § 615 47 U.S.C. § 615a 47 U.S.C. § 615a-1 47 U.S.C. § 615b	
Department of Public Safety Complaints regarding local emergency systems La. R.S. 45:800	The LPSC has specific jurisdiction to hear complaints brought by the Department of Public Safety against public utilities to enforce compliance by such utilities with tariff provisions concerning local emergency telephone systems.
Taxable telecommunications services La. R.S. 47:301(i) La. R.S. 47:301.1 La. R.S. 47:302(C)(2) La. R.S. 47:331(C)(2)	Act no. 22 of the 2000 Legislative Session was passed to correct the disparate treatment accorded to certain intrastate telecommunications service providers by providing a tax credit (in the amount equal to their ad valorem property tax, offset by an expansion of the sales and use tax base to include telecommunication services) to those telecommunications providers with property classified as "Public Service Property." In order for these tax credits to become effective, the LPSC was charged with implementing rate deductions in amounts equal to the tax credits received by the affected companies. The LPSC therefore issued a series of general orders to implement the mandatory rate reductions accordingly.
Automatic dialers La. R.S. 45:813 La. R.S. 45:814 La. R.S. 45:815	Companies or individuals using automatic dialer equipment must register with the LPSC and execute a surety bond (although the LPSC has authority to waive the bond requirement). The LPSC shall issue regulations to govern permits for automatic dialer operators and shall collect application/renewal fees from persons applying for a permit. The LPSC can suspend or revoke a permit. The LPSC can furthermore order a telephone company or cooperative to withdraw from access to a telephone access line if calls to that number are solicited through automatic equipment or through the U.S. mail.
Caller ID regulations La. R.S. 45:844.2 La. R.S. 45:844.3	The LPSC has a mandate to promulgate rules and regulations which ensure that telephone solicitors possess an identification code that appears on caller ID units. Telecommunications service providers that cannot deliver such information must file with the LPSC (upon LPSC request), an explanation of why it cannot provide the information. The LPSC must issue rules and regulations to prevent caller ID blocking. The LPSC has additional authority to impose civil penalties for caller ID violations.
Do Not Call program	In order to ensure a citizen's fundamental right to privacy in the

<p>La. R.S. 45:844.11 La. R.S. 45:844.12 La. R.S. 45:844.13 La. R.S. 45:844.14 La. R.S. 45:844.15 La. R.S. 45:844.16 La. R.S. 45:844.17</p>	<p>home, the LPSC maintains a Do Not Call to restrict unwanted calls by telemarketers. The Louisiana program allows ratepayers to contact the LPSC and opt out of receiving telephone solicitations at their residences. Persons wishing to conduct telephone solicitations must register with the LPSC, pay a registration fee and purchase a copy of the LPSC's register of citizens that have opted out of receiving such solicitations. Failure to comply with these requirements may result in a penalty assessed against the telemarketer. The program is entirely self-sufficient and all fees and penalties collected are transferred into a special fund in the state treasury known as the "Telephonic Solicitation and Relief Fund." The program does not apply to certain classes of actors, such as non-profit organizations and entities having a preexisting business relationship with the ratepayer.</p> <p>Although a similar program has been instituted at the national level by the Federal Trade Commission and the Federal Communications Commission, this federal program does not provide the same degree of consumer protection as Louisiana's own program. Louisiana's plan prohibits non-profit organizations from hiring professional telemarketers to conduct solicitation activity. More importantly, the LPSC directly handles all complaints received by ratepayers, and places special emphasis on consumer interaction, education and public service.</p>
<p>Wireless Do Not Call La. R.S. 45:844.8</p>	<p>The federal government has preemptive authority to regulate wireless telephones, and has consequently implemented a Do Not Call registry for wireless phones. Although the LPSC may lack authority to regulate the rates and services of the phones themselves, it can nonetheless promulgate rules and regulations that comply with federal law prohibiting telemarketers from making wireless telephonic solicitations. Louisiana citizens therefore enjoy even greater protection from unwanted calls in a medium that continues to charge ratepayers by the amount of time used (regardless of the receiver's expectations).</p>
<p>Emergency suspension of telemarketing La. R.S. 45:844.32 La. R.S. 45:844.33</p>	<p>The LPSC must implement rules regarding the suspension of telephonic solicitation activity during a state of emergency, including measures to notify telephonic solicitors that an emergency has been declared and that telephonic solicitations are prohibited at that time. Similarly, the LPSC must investigate complaints received concerning telephonic solicitations during a state of emergency. The LPSC must give notice and hold a hearing, and if a violation has occurred it must impose a penalty. If the solicitor refuses to pay the assessed fine, the LPSC may</p>

	<p>again give notice and hold another hearing to assess additional cost and attorney fees related to collection of the fine. These provisions serve an important public policy of protecting citizens from falling prey to telemarketing schemes at times when their judgment may be impaired due to the stressors created by natural disasters. Equally important, these statutory provisions help to preserve Louisiana's telephone systems from overloading during times when its continued operation is absolutely essential to the health and safety of our people.</p>
<p>Anti-slamming measures La. R.S. 45:1166.1 Gen. Order 5/12/93 Gen. Order 7/08/93 Gen. Order 5/7/97 Gen. Order 1/8/98 Gen. Order 4/21/98 Gen. Order 6/5/98 Gen. Order 8/6/98 Gen. Order 4/30/02</p>	<p>Telephone service providers may not transfer a ratepayer's long-distance service to another long-distance service provider without the ratepayer's express authorization to do so in accordance with one of four statutory procedures. One of these procedures calls for the LPSC to produce written authorization forms to be provided to the customer by the service provider. Alternatively, the service provider may obtain electronic or voice confirmation from the ratepayer if that authorization includes sufficient data to verify the ratepayer's desire to change the long-distance service. Finally, the service provider may send via first class mail a package concerning the requested change; said package must include contact information for a contact point within the LPSC capable of receiving consumer complaints, as well as a postcard to be returned by the ratepayer confirming the change. If a change is made without the ratepayer's permission, then that ratepayer has a private cause of action in civil district court for damages equal to three times the amount of the damages sustained as a result of the illegal change. The LPSC may investigate such a complaint, and its findings are to be considered prima facie evidence of the facts contained therein.</p> <p>The necessity of such requirements is self-evident, creating a means and forum for an aggrieved ratepayer to vindicate himself or herself against an intrusion of his or her consumer rights. The LPSC's special knowledge of the applicable laws and regulations pertaining to long-distance telephone services is instrumental to the determination of whether a change in long-distance services was legitimately conducted.</p> <p>The LPSC has further employed its constitutional authority over telephone carriers to create extensive rules prohibiting slamming.</p>
<p>Anti-cramming measures La. R.S. 45:1166.2 Gen. Order U-24050</p>	<p>The LPSC is required to adopt rules and regulations (including but not limited to the imposition of fines and sanctions) to prohibit or prevent "cramming" (the inclusion of unauthorized charges on a telephone subscriber's bill). Telephone service</p>

	providers therefore have an additional incentive not to include unauthorized charges over and above any potential litigation that might be initiated by aggrieved ratepayers.
Penal institutions La. R.S. 45:1166.3 Gen. Order 9/18/98	Long-distance service providers are prohibited from charging a rate for an operator-assisted collect call from a penal institution in excess of the rate charged for such calls made from the closest municipality. The rates must furthermore comply with the LPSC's rate caps on long-distance telephone calls. The LPSC has issued the General Order dated 9/18/98 that includes detailed rates and regulations for operator service providers and payphone service providers. Accordingly, persons receiving collect calls from a person incarcerated in a penal institution are not charged disproportionate rates.
Telephonic relay services for the hearing- and speech-impaired 47 U.S.C. § 255	<p>Telephone carriers are obligated by federal law to provide intrastate telecommunications relay services to hearing-impaired and speech-impaired individuals. The Federal Communications LPSC has therefore been directed by Congress to ensure that interstate and intrastate telecommunications relay services are available to hearing-impaired and speech-impaired individuals. Although the FCC is authorized to institute such programs within individual states, a state government may avoid direct federal regulation of the state's activity by establishing its own program for the provision of telephonic relay services. Specifically, a state program must make intrastate telephonic relay services available to hearing- and speech-impaired individuals through one of four approved methods: directly; through designees; through a competitively selected vendor; or through regulation of common carriers. Telephone service providers will be considered to be in compliance with these federal regulations of intrastate telecommunications, if that common carrier resides in a State with a program certified by the FCC and the carrier is in compliance with that State's program.</p> <p>In response to this federal directive and in order to prevent federal regulation of intrastate activity, the LPSC established the Relay Administration Board, a nonprofit organization that oversees the provision of relay services to speech-impaired and hearing-impaired individuals..</p>
Numbering resource "Safety Valve" administrator 47 C.F.R. § 52.1(g)(4) FCC Rule 00-104	The Federal Communications Commission issued a report and order for the purpose of implementing uniform standards regarding the assignment of telephone numbering resources (including increasing the efficiency in the use of existing numbers and to avoid further exhaustion of existing numbers). The FCC

	thereby granted authority to state commissions to affirm or overturn decisions of the North American Numbering Plan Administrator/NeuStar to withhold numbering resources from a particular carrier.
Pole attachments 47 U.S.C. § 224	Although the Federal Communications Commission regulates the rates, terms and conditions of pole attachment agreements, Congress allows a state to preempt the FCC's regulatory authority by certifying to the FCC that the state already regulates the rates, terms and conditions of such agreements, and that in so regulating, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such services, as well as the interests of utility customers. The LPSC certified to the FCC decades ago that it fulfills these criteria and consequently has regulated pole attachment agreements ever since.
Regulation of radio carriers La. Const. art. IV, § 21 La. R.S. 45:1500 La. R.S. 45:1501 La. R.S. 45:1502 La. R.S. 45:1503 La. R.S. 45:1504 47 U.S.C. § 332	<p>The LPSC is required by statute to exercise jurisdiction over radio common carriers providing a service of radio communications between mobile and land stations (including land line telephones) and among such stations. Accordingly, the LPSC must prescribe appropriate rules and regulations and make orders to insure that radio common carrier rates are reasonable, just, and adequate. As the legislature has mandated that radio common carriers must obtain a certificate of public convenience and necessity, the LPSC must prescribe appropriate and reasonable rules and regulations governing the issuance of such certificates. The LPSC may also order an interconnection agreement (on reasonable terms) between a radio common carrier and a serving telephone company if a necessity exists.</p> <p>Although Congress has preempted regulation of the entry of and rates charged by commercial mobile radio services carriers, the LPSC nonetheless has jurisdiction to regulate the other terms and conditions of such commercial mobile radio services. Specifically, the LPSC may require a commercial mobile radio services provider to adhere to generally applicable state regulations promoting the universal availability of telecommunications services at affordable rates. The LPSC may also petition the Federal Communications Commission for authority to regulate the rates of a commercial mobile radio services carrier if market conditions fail to protect ratepayers from unjust or unreasonably discriminatory rates, or if such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial part of the telephone land line exchange service within the LPSC's</p>

	jurisdiction.
<p>Regulation of motor carriers La. Const. art. IV, § 21 La. R.S. 45:162(10) La. R.S. 45:163</p>	<p>The LPSC possesses all necessary power and authority to supervise, regulate, govern and control all motor carriers which transport intrastate, household goods, passengers, waste, or any other classification of carriers created by law and to fix reasonable and just rates for services and commodities provided by motor carriers. This authority covers services provided by and records kept by motor carriers.</p> <p>In order to carry out this mandate, the LPSC shall adopt and enforce rules & regulations, summon, compel and swear witnesses, compel production of evidence, take testimony and punish for contempt. The LPSC can also prescribe and require furnishing and filing of tariffs and schedules.</p> <p>The LPSC is further required to enforce statutes pertaining to motor carriers through LPSC enforcement agents, who have statewide authority to make arrests and issue subpoenas. These officers can require motor carriers to stop and present bills of lading for inspection, and the officers can further inspect vehicles and impound any property therein. The officers' authority in this regard even extends to persons aiding and abetting violators of motor carrier statutes.</p>
<p>Certification of motor carriers La. R.S. 45:162(13 & 20) La. R.S. 45:164 La. R.S. 45:166 La. R.S. 45:169</p>	<p>Any person seeking to do business as a motor carrier in the state of Louisiana must apply to the LPSC for certification. The LPSC will then hold a public hearing on the application and determine whether certification of the applicant is in the public interest. If so, the LPSC will issue a certificate of public convenience and necessity to the motor carrier. Any person seeking to do business as a motor carrier of household goods, passengers and saltwater in the state of Louisiana must apply to the LPSC for certification, but need not prove public convenience and necessity. Applications must be accompanied by a \$50.00 non-refundable application fee.</p> <p>The LPSC necessarily possesses the authority to suspend, amend or revoke the motor carrier certificates that it issues. Additionally, before a certificate can be sold, leased or otherwise transferred, the LPSC must determine that the rights of that certificate have been exercised for at least six months prior to the proposed sale, lease or transfer. If the LPSC finds that a certificate has not been used in six months, it must give notice and hold a hearing to determine if the certificate should be canceled.</p>

Motor Carrier Regulation Fund La. R.S. 45:169.1	Along with assorted fines and penalties, application and certification revenues are deposited into a separate fund in the state treasury (known as the "Motor Carrier Regulation Fund"), to be used to defray the costs of the LPSC's transportation division. The director of the transportation division is responsible for administering the fund. Besides financing the LPSC's transportation division, monies in the Motor Carrier Regulation Fund must be used to increase manpower and physical support for regulation of the intrastate motor carrier industry.
Insurance/bond requirements La. R.S. 45:163 La. R.S. 45:173 La. R.S. 45:175 La. R.S. 45:177	The LPSC requires certain kinds of insurance and indemnity bonds from each motor carrier, and specifically demands that contract carriers of passengers or property by motor vehicle produce liability insurance policies or bonds. This requirement makes certain that anyone injured by a motor carrier can be compensated for any loss suffered. Certain industries are exempted from this requirement (i.e, school buses, transporters of hotel patrons, transporters of agricultural products, newspaper carriers).
Certification for applicants for license plates La. R.S. 45:178 La. R.S. 45:179	The LPSC issues certificates of entitlement to applicants for license plates or registration certificates. This ensures that motor carriers have complied with LPSC regulations before obtaining a license plate or vehicle registration.
Towing and recovery services La. R.S. 32:1736(D) La. R.S. 45:162(10) La. R.S. 45:180.1(B) La. R.S. 45:180.1(C)	The LPSC regulates Towing and Recovery services by supervising, governing and controlling the business of these carriers (including but not limited to the fixing of reasonable and just rates, fares, tolls and charges).
Regulation of Railroads La. Const. art. IV, § 21 La. R.S. 45:1165 49 U.S.C. § 10501(b)	La. R.S. 45:1165 delineates the LPSC's authority over railroads. In many instances, the LPSC's authority has been preempted by the federal Interstate Commerce Commission Termination Act of 1996.
Federal Railroad Safety Participation Program La. R.S. 45:561 La. R.S. 45:562 49 U.S.C. § 20134 49 C.F.R. § 212 et seq.	The LPSC has authority to perform any act and issue any orders permitted by the Federal Railroad State Safety Participation regulations, but the LPSC cannot order a railroad facility owner or operator to alter or cease operations. This enables the LPSC to make certain that intrastate railroad operations conform to the highest levels of safety possible, thereby engendering the health, safety and welfare of Louisiana citizens with respect to railroads. Although railroad safety is largely preempted by federal law, the Rail Safety Act of 1970 does authorize the states to work with the

	<p>Federal Railroad Administration to enforce Federal railroad safety regulations. The State Rail Safety Participation Program permits states to hire inspectors in all five of the safety disciplines: track, signal and train control, motive power and equipment, operating practices, and hazmat. These statutes provide for the hiring of up to six inspectors by the LPSC.</p> <p>Unfortunately, the statutes do not provide funding for the new employees and the LPSC continues to fight legal challenges to its authority to implement fees to run this program.</p>
Private railroad crossings La. R.S. 48:394	<p>The LPSC is responsible for regulating the proposed closures of private railroad crossings, determining whether such closures are absolutely necessary. Upon application by an interested party and after publication in the LPSC's official bulletin and a public hearing, the LPSC must determine whether or not the proposed closing would be in the public interest. If necessary, the LPSC shall publish notice of the date and proposed manner of the closing. Accordingly, the LPSC ensures that railroad companies do not indiscriminately prevent private landowners from being able to access their property, nor can railroads impose unconscionable conditions upon private landowners who wish to continue using the crossings that border or intersect their homes and places of business.</p>
Disputes between railroads and municipalities La. R.S. 33:3702	<p>The LPSC shall resolve disputes between municipalities and railroad companies over the installation of public railroad crossings.</p>